

Service Date: March 22, 1996

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

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IN THE MATTER of the Application of)	UTILITY DIVISION
Northwestern Telephone Systems, Inc., d/b/a)	
PTI COMMUNICATIONS for Approval of)	
Revised Rates Reflecting Jurisdictional Shifts)	DOCKET NO. D95.9.143
and Issuance of a Partial Waiver of Minimum)	
Filing Requirements.)	ORDER NO. 5904

FINAL ORDER

I. Introduction and Procedural Background

1. On September 29, 1995 Northwest Telephone Systems, Inc., d/b/a PTI Communications (PTI) filed an Application with the Montana Public Service Commission (Commission) for authority to increase rates by \$1,667,931.

2. PTI is a local exchange carrier providing regulated intrastate telecommunications services in 15 Northwest Montana exchanges pursuant to rates approved by the Commission.

3. Local exchange carriers (LECs) such as PTI allocate their switching and loop¹ costs between interstate and intrastate jurisdictions according to strictly prescribed FCC rules. All costs that are allocated to a LEC's intrastate jurisdiction must be recovered through revenues from the LEC's in-state services, such as local exchange service and in-state toll and access charges. Costs that are allocated to a LEC's interstate jurisdiction are primarily recovered through revenues from interstate carrier access charges.

4. The Commission approves rates sufficient for PTI to have the opportunity to recover investment and expenses that are allocated to the intrastate jurisdiction pursuant to Federal Communications Commission rules. *See* 47 CFR Part 36 (1995). PTI requested the increase in

¹ A loop is the communications channel, usually a physical wire line, that extends to the customer's location from the telecommunications provider's central office.

order to recover increased intrastate revenue requirements associated with jurisdictional shifts in embedded cost allocations. The jurisdictional shifts resulted in PTI receiving less money from federal support mechanisms.

5. The FCC has established two programs that are designed to keep LECs' intrastate rates affordable. Both programs provide mechanisms that allow LECs to allocate higher portions of their switching and loop costs to the interstate jurisdiction, thereby allowing them to receive federal support. The first program, known as Dial Equipment Minute weighting (DEM weighting), allows LECs with no more than 50,000 access lines to allocate more switching costs to the interstate jurisdiction. The second program, the Universal Service Fund (USF), is designed to assist LECs which have higher than average subscriber loop costs. PTI's proposed rate increase reflects jurisdictional shifts in embedded cost allocations resulting from both the DEM weighting program and the USF.

6. The first shift, resulting from the DEM weighting factor, reflects a larger amount of lost revenue. Under the federal rules, companies having more than 50,000 access lines in a state cannot make allocations to the interstate jurisdiction based on the DEM weighting factor of 2.0. Since PTI's Montana "study area"² exceeded 50,000 access lines in August 1995, PTI can no longer shift additional switching costs to the interstate jurisdiction by means of the FCC's DEM weighting program. This reduces PTI's interstate rate base by \$2,361,538. PTI's interstate expense allocation is reduced by \$959,620. Revenue recovery based on these allocations must now derive from sources under the jurisdiction of the PSC.

7. The second jurisdictional shift is in the amount of local loop costs PTI can shift to the interstate jurisdiction under the USF program. *See Universal Service Fund Rules, 47 CFR ' 36, Subpart F.* Because PTI's average loop cost is lower relative to the national average loop cost, PTI now receives less money from the USF. The amount of local loop costs qualifying for Universal

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A study area@ is a geographical area used for purposes of USF support for LECs.

Service Fund (USF) recovery is determined by the telephone company's study area cost per loop as compared to the national average cost per loop. The amount of local loop costs that PTI recovered from the USF decreased by \$307,686 between 1994 and 1995.

8. Both of these events occurred by operation of federal law and are not within the control of either PTI or the Commission.

9. PTI states that the impact of the two jurisdictional shifts will reduce its rate of return from 8.54 percent to 5.53 percent. To offset this impact and restore the rate of return it was allowed to earn before the jurisdictional shifts occurred, PTI proposed a rate increase of \$2.88 per month for all access lines.

10. Pursuant to ARM 38.2.305 and 38.5.2802(4), PTI asked the Commission to partially waive the minimum filing requirements which are generally necessary for the Commission to process a request for a rate increase. PTI considers the remainder of the information unnecessary in determining the merits of a limited flow through of the jurisdictional shifts. *See* ARM 38.5.2801 through 38.5.2821. PTI is not seeking recovery of any other shortfalls that are not associated with the two jurisdictional shifts explained above. In addition, PTI asserted that it is not currently over-earning and would not be over-earning if the full amount of the proposed rate increase were to be implemented. On February 5, 1996 the Commission granted PTI's request for a partial waiver of the minimum filing requirements.

11. Two interested parties, the Montana Consumer Counsel (MCC) and AT&T of the Mountain States (AT&T), filed timely written requests to intervene on January 18, 1996. MCC requested general intervention in this proceeding in order to represent the interests of the consuming public. AT&T, as a purchaser of significant quantities of carrier access and services, requested intervention to protect its interests as a customer of PTI. Both AT&T and MCC were granted intervention in this Docket.

12. MCC stated that with the cooperation of PTI, discussions and extensive discovery had taken place. As a result of those discussions an agreement between PTI and MCC was reached and filed as a Stipulation on January 9, 1996 with the Commission. A copy of the Stipulation is appended to this Order as Attachment AA.@

13. PTI's application for a rate increase was publicized through legal notices and press releases to local media. The Commission received one comment in the form of a letter from a business customer recognizing the legitimacy of a rate increase, but supporting the flat rate increase over the percentage rate. That and other issues were addressed in a Stipulation Conference held on March 4, 1996 in the Commission offices in Helena. The Commission did not hold a public hearing in this proceeding because the pass-through was largely nondiscretionary and because there was no public request.

II. Findings of Fact and Decision

Stipulation

14. In their Stipulation, the MCC and PTI agreed that recognition of some level of the impacts of the jurisdictional shifts that does not involve a full rate case procedure would be appropriate and in the public interest. They agreed that the Commission should waive its minimum filing requirements (ARM 38.5.2801, *et seq.*) in this matter. PTI and the MCC further agreed that an appropriate flow though of the impacts of the jurisdictional shifts in this limited proceeding would be an increase in intrastate revenues in the amount of \$1,225,240 annually, \$442,691 less than originally requested. They also agreed that the increased revenue requirement should be generated by increasing the charge for all access lines by approximately 12 percent, rather than the \$2.88 per line that was originally proposed by PTI.

15. On January 24, 1996 AT&T filed a document supporting the Stipulation, stating that its interests were adequately and appropriately addressed by the terms agreed to by PTI and MCC.

16. The rate increase requested in this Docket is the result of increased intrastate revenue needs which are not within the control of either the Commission or PTI. Because the Commission has limited discretion in this matter, it is appropriate to approve the Stipulation without further investigation into PTI's results of operations.

Rate Design

17. The rate design resulting from the Stipulation differs from that originally proposed by PTI. As illustrated by the table included in the attached Stipulation, PTI originally proposed to allocate the revenue increase among its customer classes by increasing each class's monthly rate by

an equal dollar amount of \$2.88 per month. Because each class's monthly rate differs, PTI's proposed rate design would have resulted in percentage increases ranging from approximately 6 percent for Datapath service to more than 27 percent for basic residential service.

18. PTI's filing did not include cost of service information for different classes of service. Therefore, the Commission had no evidence presented in this proceeding to indicate that such a nonproportional allocation of the rate increase would be appropriate. The Stipulation spreads the revenue increase evenly across PTI's customer classes. According to the Stipulation, all rates will increase by approximately 12 percent per month.

19. The Commission is obligated to establish and maintain just and reasonable rates for all subscribers. It is PTI's burden to convince the Commission that approval of the PTI/MCC Stipulation is consistent with a finding that the rates propounded therein are just and reasonable. Similarly, it would have been PTI's burden to convince the Commission that the originally proposed nonproportional allocation of the rate increase would be just and reasonable and in the public interest. The information filed by PTI is sufficient to address the need for an increase under the limited scope of this Docket and satisfies PTI's burden.

20. Because the rate increase in this Docket involves a re-allocation of revenue requirements from the interstate jurisdiction to the intrastate jurisdiction resulting only from operation of law and is not the result of other revenue shortfalls, it is appropriate to apportion the rate increase to all subscribers on an equal percentage basis pursuant to current rates.

III. Conclusions of Law

1. PTI is a public utility offering regulated telecommunications services in the State of Montana. Section 69-3-101, MCA. The Commission has authority to supervise, regulate and control public utilities. Section 69-3-102, MCA.

2. The Commission properly exercises jurisdiction over PTI's Montana operations pursuant to Title 69, Chapter 3, MCA.

3. The Commission provided adequate public notice of all proceedings and an opportunity to be heard to all interested parties in this Docket, as required by the Montana Administrative Procedure Act, Title 2, Chapter 4, MCA.

4. The Commission may waive the minimum filing requirements in a rate case upon a showing of good cause. ARM 38.5.2801 and 38.5.2802(4). Good cause is present in this case because the increased revenue requirements resulted from operation of federal law.

5. Waiver of all or any part of the minimum filing requirements does not preclude the Commission from requiring material sufficient to support the application. ARM 38.5.2801

6. The rates and charges established in this Order are just and reasonable. Section 69-3-201, MCA.

IV. Order

THEREFORE, based upon the foregoing, it is ORDERED as follows:

1. PTI's request for approval of its Stipulation with the MCC to increase rates by approximately 12 percent as illustrated by the table attached to the Stipulation is approved.

2. PTI is directed to file compliance tariffs with the Commission within 15 days from the service date of this Order, which incorporate all of the decisions herein. Authority to review and approve the compliance tariffs is hereby delegated to the Commission staff.

DONE AND DATED at Helena, Montana, this 18th day of March, 1996, by a vote of 5-0.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

NANCY MCCAFFREE, Chair

DAVE FISHER, Vice Chair

BOB ANDERSON, Commissioner

DANNY OBERG, Commissioner

BOB ROWE, Commissioner

ATTEST:

Kathlene M. Anderson
Commission Secretary

(SEAL)

NOTE: Any interested party may request the Commission to reconsider this decision. A motion to reconsider must be filed within ten (10) days. See ARM 38.2.4806.

Concurring Opinion

Docket No. 95.9.143

Order No. 5904

I am concurring with the majority opinion and accept the stipulation entered into between PTI Communications and the Montana Consumer Counsel. Given the facts that were known at the time the stipulation was submitted to the Commission on January 9, 1995 it meets long standing public interest criteria.

Now, two months later those facts must be viewed differently. One month after the parties agreed the US Congress passed the Telecommunications Act of 1996. I believe this act so dramatically alters the world of telecommunications I am less certain that the rates reflected in this stipulation are viable in a competitive phone world.

My preference would be to take the rate design issues to hearing as correct pricing becomes vital to assure PTI's continued viability and to allow for fair competition in the local exchange. But to delay the application and awarding of final rates to allow the development of a complete record would have presented a financial burden for the applicant. Therefore, the proper examination of rate spread between customer classes must await for a later day.

Danny Oberg
Commissioner